

1 AN ACT  
2 RELATING TO DISABILITIES; PROVIDING FOR CONSUMER DIRECTION  
3 OF PERSONAL ASSISTANCE SERVICES IN CERTAIN PUBLICLY FUNDED  
4 PROGRAMS.

5  
6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

7 Section 1. SHORT TITLE. -- This act may be cited as the  
8 "Consumer Direction Act".

9 Section 2. PURPOSE. -- The purpose of the Consumer  
10 Direction Act is to ensure a consumer the right to direct  
11 his personal assistance services if he so chooses by  
12 selecting an attendant appropriate to his needs and to  
13 maximize personal assistance service availability and  
14 satisfaction.

15 Section 3. DEFINITIONS. -- As used in the Consumer  
16 Direction Act:

17 A. "attendant" means a person, including an  
18 allowable family member, who provides personal assistance  
19 services;

20 B. "consumer" means a person receiving personal  
21 assistance services through any personal assistance programs  
22 offered by the state of New Mexico;

23 C. "department" means any department or agency  
24 of the state offering personal assistance service to  
25 individuals;

1           D. "fiscal intermediary" means a person or  
2 entity selected by agreement between the consumer and the  
3 department under contract to the department to assist the  
4 consumer to perform certain employment functions, including  
5 payroll responsibilities for the attendant and filing  
6 necessary eligibility information with the department;

7           E. "personal assistance services" means a  
8 prescribed course of regular personal care, including  
9 hygiene, mobility and daily living assistance that permits a  
10 person to live in his home rather than an institution,  
11 including bathing, dressing, grooming, eating, toileting,  
12 shopping, transporting, cueing medication administration and  
13 communicating;

14           F. "plan" means a written and signed agreement  
15 between a consumer or surrogate and the department for the  
16 provision of personal assistance services; and

17           G. "surrogate" means a family member, legal  
18 guardian or other person approved by the consumer and  
19 identified in the personal assistance services plan to  
20 assist in direction of personal assistance services and  
21 choice of attendant.

22           Section 4. CONSUMER DIRECTION PROGRAMS AUTHORIZED. --  
23 Consistent with the federal Social Security Act and subject  
24 to the appropriation and availability of federal and state  
25 funds, each administering department or agency shall by rule

1 provide a program permitting a consumer or surrogate to  
2 direct personal assistance services through the hiring,  
3 supervision and training of an attendant or attendants paid  
4 through a fiscal intermediary under contract with the  
5 department.

6 Section 5. DEPARTMENT DUTIES. --A department shall:

7 A. establish by rule the criteria and procedures  
8 for developing and amending a personal assistance services  
9 plan with a consumer;

10 B. develop criteria and procedures for selection  
11 of a fiscal intermediary to contract with the department to  
12 provide fiscal intermediary services to a consumer; and

13 C. establish rates for reimbursement of an  
14 attendant providing personal assistance services to a  
15 consumer and for the compensation of a fiscal intermediary.

16 Section 6. REPORT. --Annually by October 1, each  
17 department shall deliver a report to the legislative finance  
18 committee and the legislative health and human services  
19 committee on services provided pursuant to the Consumer  
20 Direction Act and a comparison of those services and  
21 services provided by the department through other means and  
22 an evaluation of the effectiveness and consumer satisfaction  
23 with the respective means of service delivery.

24 Section 7. EFFECTIVE DATE. --The effective date of the  
25 provisions of this act is July 1, 2003. \_\_\_\_\_

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